

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DANIEL MARINO,	:	CIV. NO. 11-CV-6811
PLAINTIFF	:	
	:	
V.	:	
	:	
USHER, ET AL.,	:	
DEFENDANTS	:	

MOTION OF FRANCIS MALOFIY TO STAY THE PAYMENT FOR SANCTIONS  
UNTIL HIS APPEALS ARE COMPLETED

The Petitioner, Francis Malofiy, by and through his counsel, Samuel C. Stretton, Esquire, hereby requests this Honorable Court stay the payment of sanctions for the following reasons:

1. This Honorable Court ordered sanctions against Mr. Malofiy in the captioned matter for attorney's fees and costs.
2. Mr. Malofiy notified this Honorable Court he has the ability to pay and asked the Court to lift its Order with a discovery schedule.
3. This Honorable Court issued an Order on September 9, 2014 lifting the stay. A copy of the said Order is attached and marked as Exhibit "A". Mr. Malofiy wanted to take an appeal.
4. Mr. Malofiy intends to appeal the sanctions. Unfortunately, he can't do so because the underlying case has not concluded.
5. Mr. Malofiy is requesting that all sanction payments be stayed pending his appeal since in his position he has good

and just issues on appeal and the sanctions may well be reversed.

6. It would be unfair for Mr. Malofiy to have to pay substantial amounts of money if the sanctions are reversed.

WHEREFORE, the Petitioner, Francis Malofiy, respectfully requests this Honorable Court stay the payment of the sanctions pending the resolution of his appeals on this issue.

Respectfully submitted,

s/Samuel C. Stretton  
Samuel C. Stretton, Esquire  
Attorney for Francis Malofiy, Esq.  
301 S. High Street  
P.O. Box 3231  
West Chester, PA 19381  
(610) 696-4243  
Attorney I.D. No. 18491

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MEMORANDUM OF LAW IN SUPPORT OF MOTION TO STAY THE PAYMENT FOR  
SANCTIONS UNTIL HIS APPEALS ARE COMPLETED

The Petitioner, Francis Malofiy, was sanctioned by this Honorable Court after a hearing. Mr. Malofiy intends to appeal the sanctions as soon as there is a final Order.

This Honorable Court issued an Order on September 9, 2014, which is attached and marked as Exhibit "A". This Order indicated, at the request of Mr. Malofiy, that the discovery be stopped and the Court accepted Mr. Malofiy's assertion that he had the ability to pay the sanctions.

Mr. Malofiy is asking that the sanctions be stayed since it is his intention to appeal these sanctions and he contends he has good and just issues. Unfortunately, he cannot take the appeal until there is a final Order in the underlying case. Since there is no final Order, Mr. Malofiy is still waiting to file an appeal to the United States Court of Appeals for the Third Circuit.

Mr. Malofiy is asking that the payment of the sanctions be stayed pending the resolution of his appeals in this matter. It

would only be fair to Mr. Malofiy to allow him to complete all appeals on this matter before he has to make these substantial payments. For instance, if Mr. Malofiy did pay the sanctions now, he might be put in a very difficult position financially later if the sanctions were reversed. He may or may not be able to recover those monies under that circumstance.

Mr. Malofiy, therefore, asks this Honorable Court to stay his payment until he can resolve any and all issues by an appeal.

Respectfully submitted,

s/Samuel C. Stretton  
Samuel C. Stretton, Esquire  
Attorney for Francis Malofiy, Esq.  
301 S. High Street  
P.O. Box 3231  
West Chester, PA 19381  
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CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the Motion to Stay Payment of Sanctions and Memorandum of Law in support thereof of Francis Malofiy in the captioned matter upon the following persons in the manner indicated below.

Service by First Class Mail addressed as follows:

1. Honorable Paul S. Diamond  
United States District Court for the  
Eastern District of Pennsylvania  
6613 U.S. Courthouse  
601 Market Street  
Philadelphia, PA 19106
2. Jonathan D. Davis, Esquire  
Jonathan D. Davis, P.C.  
99 Park Avenue, Suite 1600  
New York, NY 10016  
(212) 687-5464
3. Michael Eidel, Esquire  
Fox Rothschild, LLP  
2000 Market Street, 20<sup>th</sup> Floor  
Philadelphia, PA 19103  
(215) 299-2000

Attorneys for Defendants, Usher Raymond, IV a/k/a Usher ("Usher"), Sony Music Entertainment, EMI April Music, Inc., EMI Blackwood Music, Inc., Warner-Tamerlane Publishing Corp., UR-IV Music, Inc., Bystorm Entertainment, Mark Pitts, Issiah Avila, Jr., Bobby Ross Avila, Jr., Sublime Basement Tunez, Defenders of Music, Flyte Tyme Tunes, James Samuel Harris, III, and Terry Steven Lewis.

4. Mark S. Lee, Esquire  
Manatt, Phelps & Phillips, LLP  
11355 W. Olympic Boulevard  
Los Angeles, CA 90064-1614  
(310) 312-2000  
(310) 312-4224 - Fax  
[mlee@manatt.com](mailto:mlee@manatt.com)

5. Lance Rogers, Esquire  
Bruce L. Castor, Jr., Esquire  
Rogers & Associates, LLC  
26 East Athens Avenue  
Ardmore, PA 19003  
(610) 649-1880  
(877) 649-1880 - Fax  
[lance@rogerscounsel.com](mailto:lance@rogerscounsel.com)  
Attorney for Defendant, IN2N Entertainment Group, LLC  
("1N2N")

6. Thomas Van Dell  
10900 Wilshire Blvd., Suite 1400  
Los Angeles, CA 90024  
(310) 443-5332  
[vandell@hudcan.com](mailto:vandell@hudcan.com)  
Defendant, Pro Se

7. Dante E. Barton  
1111 Bergan Road  
Oreland, PA 19075  
Defendant, Pro Se
8. William C. Guice  
16794 East Tufts Avenue  
Aurora, CO 80015  
Defendant, Pro Se
9. Francis Malofiy, Esquire  
Francis Alexander, LLC  
280 N. Providence Road  
Suite 105  
Media, PA 19063  
(215) 500-1000  
(215) 500-1005 - Fax

Respectfully Submitted,

October 20, 2014  
Date

s/Samuel C. Stretton  
Samuel C. Stretton, Esquire  
Attorney for Francis Malofiy, Esq.  
301 S. High Street  
P.O. Box 3231  
West Chester, PA 19381-3231  
(610) 696-4243  
Attorney I.D. No. 18491